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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,322	02/19/2004	Nicola John Policicchio	9164M	6151

27752 7590 12/23/2005

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EXAMINER	
CARRILLO, BIBI SHARIDAN	
ART UNIT	**PAPER NUMBER**
1746	

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/782,322	POLICICCHIO ET AL.	
	Examiner	Art Unit	
	Sharidan Carrillo	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *47,50-54 and 56-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *47, 50-54 and 56-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 47, 50, 52-54, and 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (6777064) in view of Childs et al. (WO002/083834).

Brown et al. teach a cleaning sheet for removing allergens from surfaces. In col. 12, lines 33-35, Brown teaches the cleaning sheet having at least two separate layers. In col. 18-19, Brown teaches the cleaning sheet having additives which include microcrystalline wax having an add-on level of at least about 0.01%. In col. 28, Example 5, Brown et al. teach cleaning sheets that are commercially available under the tradename "Quickle" and "Grab-It".

In reference to claims 47, and 58-59, Brown et al. fail to teach the specified Rt values. However, one would have reasonably expected the additives of the cleaning sheet of Brown et al. to have the same Rt values since the reference teaches using the same components as the claimed invention. In reference to claims 47, 56-57 and the penetration value, one would have reasonably expected the additives of the cleaning sheet of Brown to have the claimed penetration values since Brown teaches using the cleaning sheets of Quickle and Grab-It which are similar to applicant's cleaning sheet of Quickle and Pledge-Grab It, as recited on page 26 of the instant specification. Since Brown teaches that the cleaning sheet can have additives such as microcrystalline wax and further teaches using cleaning sheets by Quickle and Grab-It, one would reasonably expect the cleaning sheets of Quickle and Grab-It by Brown et al. to also include the microcrystalline wax additive. Therefore, since the Quickle and Grab-It sheets of Brown et al. may contain the microcrystalline wax, the examiner sees no difference between the cleaning sheet of Brown and examples 16 and 18 on page 26 of the instant specification.

Brown fails to teach the add-on level between 0.1g/m2 and about 2.3 g/m2. However, Brown teaches 0.01%. Childs teaches an add on level of 0.04 g/m2 of additive as recited on page 18.

It would have been obvious to a person of ordinary skill in the art to modify the method of Brown to include the add-on level of additive, as recited by Childs, for purposes of enhancing the ability of the cleaning sheet to pick up particulate material from surfaces, while minimizing the amount of residue left on the surface being wiped by the cleaning sheet. In reference to claim 50, refer to col. 21, lines 29-45. In reference to claim 52, refer to col. 11, lines 65-67. In reference to claims 53-54, refer to col. 8, lines 10-20.

3. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (6777064) in view of Childs et al. (Wo002/083834), as applied to claims 47, 47, 50, 52-54, and 56-59, as described in paragraph 4 above, and further in view of Bergsten et al. (US2003/0171051).

Brown et al. in view of Childs et al. fail to teach the addition of colored dyes. Bergsten et al. teach a cleaning sheet having an additive selected from the group consisting of wax and oil. Paragraph 51 teaches it is conventional to include other additives such as colorants. It would have been within the level of the skilled artisan to modify the method of Brown et al., to include colorants, as taught by Bergsten et al., which are conventionally used for imparting color to the cleaning sheet.

Response to Arguments

4. The rejections of the claims under 112, second paragraph, is withdrawn in view of arguments presented by applicant.

5. Applicant argues that Brown fails to teach the penetration value of the microcrystalline wax. The examiner agrees that Brown is silent with respect to the penetration values. However, one would have reasonably expected the cleaning sheets of Brown to have the same penetration values since Brown teaches Quickle and Grab-It cleaning sheets, which is similar to page 26 of the specification. Page 26 of the specification teaches that Grab-It and Quickle Sheets have penetration values of between about 20dmm and about 100dmm. Since Brown teaches that the cleaning sheets have additives such as microcrystalline wax and further teaches using cleaning sheets of Quickle and Grab-It, which is similar to applicant's specification, one would reasonably expect the cleaning sheets of Quickle and Grab-It by Brown to also include microcrystalline wax. Further, since the Quickle and Grab-It sheets of Brown may contain the microcrystalline wax, the examiner sees no difference between the cleaning sheet of Brown and examples of 16 and 18 on page 26 of the instant specification, in which the penetration values are between about 20dmm and about 100dmm. Therefore, one would reasonably expect the cleaning sheet of Brown having the microcrystalline wax, to have penetration values between about 20dmm and about 100dmm..

6. In reference to the Declaration, the 1.132 Declaration has only established that the microcrystalline wax, SP No. 617 has a penetration values of less than 20.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. Applicant argues that the examiner is putting unreasonable burden on applicant by requesting that Applicants demonstrate that all the microcrystalline waxes of Childs or even Brown et al. do not have the claimed penetration value. Applicant's arguments are unpersuasive. Applicant has not provided a showing of unexpected results. Specifically, in reference to Brown et al., applicant has not shown that the microcrystalline waxes of Quickle and Grab-It cleaning sheets have penetration values outside of the claimed range. Applicant further has not shown that the microcrystalline waxes of Childs et al., besides that of SP No. 617, have penetration values outside of the claimed range.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 571-272-1297. The examiner can normally be reached on M-W 6:30-4:00pm, alternating Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sharidan Carrillo
Primary Examiner
Art Unit 1746

bsc

SHARIDAN CARRILLO
PRIMARY EXAMINER